



COMMONWEALTH'S ATTORNEY NEWS RELEASE

SPECIAL PROSECUTOR THOMAS E. BOWERS DETAILS MONTGOMERY CO. SHOOTING

**For Immediate Release
March 2, 2010**

On December 30, 2009, Montgomery County Deputy Sheriff Joseph Y. Collins was involved in a shooting incident while on duty, in which Michael E. Potts, a resident of Christiansburg, was shot and killed. Montgomery Co. Commonwealth's Attorney, Bradley W. Finch, disqualified himself from the investigation and requested the Circuit Court appoint a Special Prosecutor. On January 20, 2010, the Circuit Court of Montgomery County appointed Thomas E. Bowers, Commonwealth's Attorney for the City of Salem, as Special Prosecutor.

On December 30, 2009 at 8:40 p.m., Darlene Williams placed a call to 911 Dispatch at the Christiansburg Police Department advising that Michael Potts, her estranged boyfriend and the father of her 2-year-old daughter, Olivia Williams-Potts, was at her residence at 530 Ellett Rd. in Christiansburg. Ms. Williams advised she was headed home and that Potts was attempting to take 2-year-old Olivia and leave the residence in his vehicle, without her permission. She also indicated that Potts did not have a car seat and that he was intoxicated.

At 8:41 p.m., Victoria Lytton, Ms. Williams' neighbor, called Emergency 911 and advised that the father (Michael Potts) had taken the child without permission from the babysitter and that "he had tried to run over both of us." Christiansburg Police dispatched officers to 530 Ellett Rd. in reference to a "possible drunk driver leaving with a juvenile." The vehicle description was listed as a 1986 blue Dodge Ram pickup truck, with Dallas Cowboys stickers across the front window and a Dallas Cowboys star across the back window.

At 8:46 p.m. Christiansburg Police Officer S.L. Kilby, a 12-year law enforcement veteran, saw the truck without its headlights on near Ellett Rd. and initiated a traffic stop with emergency lights and siren. The truck did not stop and a vehicle pursuit begins with the suspect heading northeast on Ellett Rd. out of the Christiansburg town limits into Montgomery County. One minute and 48 seconds later, Officer Kilby hurriedly advised over the radio "I'll be out with the subject." Sixteen seconds later, Kilby yelled "get me some help". Christiansburg Police Officer L.S. Cox arrived on scene within seconds of Kilby's "get me some help" call.

The vehicle pursuit ended when Michael Potts, traveling at excessive speed and without the head lights of his truck illuminated, rear-ended off-duty Montgomery Co. Deputy Sheriff L.V. Davis, who was in his personal Chevrolet pickup truck. Deputy Davis advised he was heading northeast on Ellett Rd. when, on a straight stretch of road, he noticed blue police lights in the distance behind him. Davis then noticed there was a vehicle in front of the cruiser quickly approaching his truck and that it did not have its headlights turned on. Davis began to slow down for the oncoming curve in the road and was hit in the

rear by the suspect's truck. Potts' then struck the rear of Davis' truck a second time. Davis then applied his brakes as Potts' truck stayed against Davis' truck and continued pushing it forward. The vehicles eventually came to a stop with Potts truck just to the left and rear of Davis' truck and near an embankment on the shoulder of the road. As Officer Kilby arrived, Potts rapidly reversed his truck approximately 15-feet, slamming into the front of Officer Kilby's stopped police car, that was situated behind the two trucks. Potts accelerated forward. Davis exited his truck and asked Potts what he was trying to do. Potts smacked the passenger door lock down and then grabbed a small female child who was in the passenger seat and began wrapping something around her neck. Davis could not identify what Potts was wrapping around the child's neck.

Davis then yelled at Officer Kilby, who had exited his vehicle, and began telling him what Potts was doing. Potts then threw his truck in reverse again and rapidly backed up ramming the front of Kilby's police car a second time. Officer Kilby told Davis to take cover. Davis grabbed his 16 year old daughter out of his truck and ran her to safety behind the police vehicles.

Potts next accelerated forward, striking the driver's side of Davis's truck, in an attempt to create an avenue to escape. Under full acceleration, Potts' truck spun snow as the left wheels drove into a shallow snow covered ditch. The forward momentum of Potts' truck stopped as the truck came to rest pinned between Davis' truck on the right and a 2-foot wide ditch on the left that was covered with piled up snow. Just to the left of the snow covered ditch was a steep hill with a large rock outcropping that was touching Potts' left front fender.

The crash site was 1.4 miles from Ms. Williams' house on Ellett Rd. and 0.9 miles from the Christiansburg town limits in Montgomery Co., just beyond a sharp left-handed downhill curve. The crash site was a narrow two-lane road with a double yellow lane divider down the middle. The left side of the road was bordered by a steep hill with large rock outcroppings that come to the edge of the roadway while the right side of the road has a very narrow shoulder and a small guardrail. Beyond the guardrail was a steep hillside that drops approximately 200 feet to a ravine.

At 8:48 p.m. Darlene Williams called Christiansburg 911 again and said Michael Potts called her and "threatened - if I don't call you guys off he is going to kill her." It is unknown whether this was just before or just after the collision with Davis' pickup truck. Officer Kilby began talking to Potts, who moved over into the passenger seat of the truck and was holding the child up in front of him as a shield. Additional Christiansburg Police officers arrived as did Montgomery Co. Sheriff's deputies. Several officers spoke to Potts about releasing the child while other officers retrieved patrol assault rifles and set up different firing positions.

At 8:49 p.m., Christiansburg Police Lieutenant M. F. Nelson, a 15-year law enforcement veteran, reported "an accident has occurred and that it is a standoff with the daughter in the car." Lt. Nelson and Officers Kilby and Cox took positions behind Kilby's car, commanding Potts to stop the truck, release the child and get out. Lt. Nelson decided to deploy a Stinger Spike Strip, a tire deflation device, in front of Potts' truck in case it broke free. Potts saw what Lt. Nelson was doing with the spike strips and as

Lt. Nelson went towards the front of the truck, Potts wielded a pair of scissors, grabbed the child, again using her as a shield, and yelled for the officers to “back up.” Lt. Nelson, not wanting to risk the child’s safety, backed up and deployed the spike strips behind the truck. Officers continued to plead with Potts to release the child telling him that the situation could be resolved. Potts advised that “he would do it that his life was over and he wanted to die.” Potts screamed he also had a knife.

At 8:52 p.m., Lt. Nelson advised dispatch that the “suspect has taken daughter hostage with a knife and a pair of scissors. Suspect was involved in an accident with (Officer) Kilby’s car and another vehicle. It’s a standoff, start calling ERT (Emergency Response Team).” A hostage negotiator was requested. Christiansburg Police Lt. D.W. Weddle, a 19 year law enforcement veteran who knew Michael Potts, came forward to negotiate.

Potts said “I know I am going to die tonight, I don’t want my child to see me die.” Potts made several slashes with a box-cutter across the front of his own neck, drawing blood. Potts also repeatedly held the scissors up as if to stab the child and continually acted irate, irrational and unwilling to cooperate. Officers repeatedly told Potts to release the child and no one would get hurt, but Potts repeatedly told the officers to “back up.” The officers advised they could not back up and they could not let him leave. Eight to 10 law enforcement officers were now on the scene.

Sheriff’s Deputy Joseph Y. Collins, a 9-year law enforcement veteran, was placed by his superior, Cpl. K.P. Weaver, in a prone position on the road to the right of Officer Kilby’s car. Approximately 15 minutes later, Corporal Weaver moved Deputy Collins to the left side of the roadway. Deputy Collins set up in a prone position lying on the snow bank on the left side of the road, approximately 43 feet behind the truck seat Michael Potts occupied. Lt. Nelson began preparing a rapid deployment hostage rescue team and advised Deputy Collins that he was the designated shooter if it “went bad.”

Potts stated “don’t make us go out this way,” which Lt. Weddle perceived to mean that Potts was going to kill the child and then himself. Potts screamed “don’t make me hurt her.” Potts would not calm down.

His demeanor did change as the stand-off continued and he seemed more intent on killing himself and not hurting the child. He removed the box cutter from near the child and began hugging her stating, “she means the world to me” and “she is all I got, don’t make her see me die.” Lt. Weddle offered to get into the other truck and take the child to safety, but Potts refused.

Christiansburg Police Investigator A. B. Durham, who knew Potts, tried negotiating, but Potts remained agitated, insisting that officers move the other truck and let him leave. Lt. Weddle advised that they could not do that. Potts again held the box cutter to his throat, making cutting motions producing blood. Potts stated “this is going to end in 5 minutes, one way or the other.”

Potts put the truck in drive and tried to move forward, again without success. He then tried reverse, with little acceleration, moving the truck slightly. Lt. Weddle asked Potts to release the child again, but Potts refused. Again, Potts asked Lt. Weddle to move the other truck and again Lt. Weddle refused. Potts moved back into the driver’s seat area, placed the truck in drive and under heavy acceleration,

slightly moved the other pickup truck. He then put the truck in reverse and accelerated. The truck began rocking and shaking and moving backwards in the direction of several officers.

At 9:22 p.m. as the truck accelerated in reverse, Deputy Collins fired a single shot from the sheriff's office issued M-16 patrol rifle. Officers approached, removed the child and shut the engine off. Rescue personnel determined Michael Potts was deceased. The child, Olivia Williams-Potts, was not physically injured. The entire standoff lasted 36 minutes and the time from the initial 911 call from Darlene Williams to the shot being fired was 42 minutes. At the request of the Christiansburg Police, the Virginia State Police was called within minutes of the shooting to handle the investigation.

Subsequent search of Michael Potts' truck revealed 3 utility knives/box cutters, a pair of scissors, an extension cord, an empty Jim Beam liquor bottle, a broken Smirnoff bottle and a Jim Beam flask. All officers and witnesses on the scene were interviewed by the Virginia State Police. Several officers on scene stated they were "about to shoot Potts themselves when the shot from Deputy Collins rang out."

An autopsy listed the cause of death as "perforation of cervical spine due to gunshot wound to neck". Michael Potts' toxicology report listed his femoral blood ethanol (alcohol) level at .13% by weight by volume and his vitreous humor ethanol (alcohol) level at .15% by weight by volume. The toxicology report also listed cocaine, 0.04 mg/L, Cocaethylene 0.03 mg/L, and Benzoylcegonine (cocaine metabolite) 0.67 mg/L. A Division of Forensic Science toxicologist explained that the most common symptoms of someone with an alcohol level of .13% and a cocaine level of 0.04 mg/L would be aggressive behavior and paranoia and possibly risk taking behavior. Michael Potts' cocaine level (0.04mg/L) was twice the per se level of driving under the influence of .02mg/L and indicated recent use while his blood alcohol concentration level was .05% above the per se level of driving under the influence of .08%.

Based upon a review of all the evidence available to me, I am of the opinion that Deputy Sheriff Joseph Collins' use of deadly force was justifiable and appropriate in that he possessed a reasonable belief that 2-year-old Olivia Williams-Potts was in imminent danger of death or serious injury based on the actions and statements of Michael Potts. In addition, use of deadly force also was justified and appropriate in that the law enforcement officers behind the truck, including Deputy Collins lying in a prone position approximately 38-feet behind Potts' truck, were in imminent danger of being killed or seriously injured, especially considering that Michael Potts had repeatedly rammed occupied police and civilian vehicles and had attempted to run over two pedestrians back at 530 Ellett Rd.

Therefore, I find no basis for any criminal charges involving the actions of Deputy Sheriff Joseph Y. Collins or any other law enforcement officers on the scene on Ellett Rd. on December 30, 2009. This will conclude the matter from a criminal perspective.

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